

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TIFFANY PICA,

Plaintiff,

-against-

TD BANK, N.A.,

Defendant.

**COMPLAINT and DEMAND FOR JURY
TRIAL**

COMPLAINT

TIFFANY PICA (“Plaintiff”), through her attorneys, alleges the following against TD BANK N.A. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the acts giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant conducts business in the this district.

PARTIES

4. Plaintiff is a natural person at times relevant residing in Kingston, New York.

5. Defendant is a business entity incorporated in Delaware and headquartered in Ohio.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

7. Defendant started calling (516) 382-84xx, Plaintiff's cellular telephone.

8. Upon information and belief based on the frequency, number, nature, and character of these calls, Defendant placed them using an automatic telephone dialing system or other equipment that has the capacity to store and/or produce telephone numbers ("auto dialer").

9. The purpose of Defendant's calls was to collect a debt.

10. These calls were for a non-emergency purpose.

11. On June 20, 2015 at approximately 11:32 a.m., Plaintiff instructed one of Defendant's employee "Brianna" to stop calling her.

12. Plaintiff revoked any consent, actual or implied, for Defendant to use an auto dialer to call her cell phone.

13. Defendant June 20, 2015, Defendant used an auto dialer to call Plaintiff's cell phone at least fifty-four (54) times.

14. Defendant voluntarily and willfully used an auto dialer to place these calls.

15. Defendant intended to use an auto dialer to place these calls.

16. Defendant did not have Plaintiff's express consent to use an auto dialer to place these calls.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

17. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

18. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, TIFFANY PICA, respectfully requests judgment be entered against Defendant, TD BANK N.A., for the following:

19. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

20. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

21. All court costs, witness fees and other fees incurred; and

22. Awarding such other and further relief as may be just, proper and equitable.

RESPECTFULLY SUBMITTED,

DATED: October 29, 2015

By: /s/Shireen Hormozdi
Shireen Hormozdi - NY Reg No. 4487872
Krohn & Moss, Ltd
10474 Santa Monica Blvd. Suite 405
Los Angeles, CA 90025
Tel: (323) 988-2400 x 267
Fax: (866) 861-1390
Email: shormozdi@consumerlawcenter.com